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STATE PASS USTR
STATE FOR EAP/TC, USTR FOR STRATFORD, KATZ, AND RAGLAND
TREASURY FOR OASIA/TTYANG
COMMERCE FOR BRENDA CARTER-NIXON, JOSHUA PIERCE, AND
MICHAEL CHOI

E.O. 12958: N/A
TAGS: [EFIN](#) [ECON](#) [ETRD](#) [KIPR](#) [TW](#)
SUBJECT: USTR-AIT ADVANCE TRADE AGENDA IN PREPARATION FOR
SUMMER TIFA MEETING

REF: 2005 TAIPEI 3982

Summary

¶1. (SBU) During February 22-26 meetings in Taipei, USTR Senior Director for China and Taiwan Affairs David Katz and AIT/W Director of Trade and Commercial Programs Rick Ruzicka laid the groundwork for the summer 2008 Trade and Investment Framework Agreement (TIFA) meeting in Taipei by pressing U.S. market access and reform concerns (septel covers agricultural issues, including pork and beef). Katz and Ruzicka expressed interest in continuing to explore a possible bilateral investment agreement (BIA), but cautioned that progress would depend in part on Taiwan reducing its list of non-conforming measures (NCMs). They observed that Taiwan must provide additional reassurances on its legal basis for information sharing in order to facilitate continued discussions on a bilateral tax agreement. Taiwan officials indicated willingness to negotiate a bilateral textile transshipment MOU as quickly as possible. On WTO issues, Taiwan has not yet reached an internal decision on whether or not to support the U.S. position on the information technology agreement (ITA), but indicated general support for U.S. goals in pursuing the Doha Development Agenda (DDA). The U.S. and Taiwan made a tentative agreement to hold annual TIFA talks in Taipei in July, and to explore options for including a business-oriented regulatory reform agenda under the TIFA rubric. End summary.

BIA, Bilateral Tax Agreement Still on Taiwan's Mind

¶2. (SBU) On their first day of meetings, Katz and Ruzicka met with the Office of Trade Negotiations (OTN) Chief Negotiator John Deng and other OTN senior staff. The two sides had a long exchange on how best to move ahead on investment talks, with Katz stressing the U.S. desire to determine the likelihood of obtaining a strong agreement before making a formal decision to launch negotiations. In response to Katz's request, Deng said Taiwan would try to reduce its list of non-conforming measures (NCMs). Deng also said the Taiwan side is ready to engage in issue-specific investment-related DVCs as requested by the U.S.

¶3. (SBU) Katz and Ruzicka discussed bilateral tax issues with Ministry of Finance (MOF) Deputy Minister Chang Sheng-hord, who noted that the Financial Supervisory Commission (FSC) and

MOF have a difference of opinion on the information-sharing provisions that the U.S. is seeking. According to Cheng, the FSC sees the provisions as difficult to implement under current Taiwan law, while MOF believes otherwise. Chang told Katz that he hopes after additional interagency consultations, Taiwan will be able to resolve the issue. (Note: His encouraging words on the tax issue paper over the real challenges in resolving this interagency dispute without a clear push from a higher level. End note.)

Textile Transshipment MOU Coming Soon?

14. (SBU) During their February 22 meeting with OTN, Katz and Ruzicka told OTC Chief Negotiator John Deng that the U.S. is still very interested in finalizing the textile transshipment MOU. At the MOEA Bureau of Foreign Trade (BOFT), Director General Franco Huang said he "sees no issue" with the textile transshipment MOU, which he believes can be negotiated "very soon."

Still Undecided on ITA

15. (SBU) BOT DG Franco Huang said Taiwan is still hammering out an interagency view on whether or not to support the U.S. position on the Information Technology Agreement (ITA), and indicated, as AIT has heard before, that Customs is hesitant.

Katz asked for Taiwan's support on the ITA, as well as on broader U.S. goals to advance the Doha Round, and observed that Taiwan in particular stands to benefit from progress on multilateral trade liberalization. During their visit to the Office of Trade Negotiations (OTN), Katz also highlighted U.S. interest in Taiwan support for our WTO positions, including ITA.

Tyco Case Grinds Along

16. (SBU) During a February 25 meeting with Ministry of Finance (MOF) Administrative Deputy Minister Chang, Chang said that the Tyco case was now before the Ministry of Finance Appeals Committee, which he chairs. Tyco has a long-standing dispute with Customs on the proper classification of its thermistors involving more than a thousand individual cases under various stages of consideration ranging from administrative review by Customs to final rulings by Taiwan courts. Tyco has been insisting that the product should be classified under Harmonized System Code 8533 and thus eligible for duty-free importation under the terms of the WTO Information Technology Agreement. Taiwan Customs, on the other hand, has insists that the product falls under HS 8536 and thus is subject to an import duty (reftel).

17. (SBU) Chang stated that committee members were independent, but that he would do his best to resolve the issue as soon as possible, preferably before TIFA in July. He suggested informally that Tyco's lawyers still had a lot of homework to do and suggested that the case is more difficult for Tyco to resolve since--in addition to pursuing an administrative appeal--they had also gone to the Taiwan courts where they had lost the case. The MOF, he pointed out, has no control over the Judiciary.

Pharma

18. (SBU) Katz and Ruzicka emphasized the ongoing U.S. focus on pharmaceutical market access in a meeting with Vice Minister of Health Chen Shih-chung. In particular, Katz noted U.S. interest in including IP issues such as patent linkage and data exclusivity on the TIFA agenda. Katz and Ruzicka also discussed drug issues with the AmCham Pharmaceutical Committee. Drug company representatives complained to Katz and Ruzicka that Taiwan has become one of the slowest and most difficult places in Asia to get

regulatory approval for new drugs or new indications of current drugs, due to increasing demands by Taiwan authorities for second-country trial data and additional studies. Amcham's pharma members also lamented the Bureau of National Health Insurance's pricing structure for new-drug reimbursement, which has pushed the average new-drug price in Taiwan to below 50 percent of the average developed-world price, down from above 80 percent in 2002. Participants suggested to Katz that the United States push to include a pricing-related working group in the TIFA structure, in addition to the current working groups on the separation of dispensing and prescribing (SDP) and standard contracts. AmCham members also complained that they are having more and more trouble arranging meetings with BNHI and other DOH officials, and are frustrated by the lack of communication.

Comment

19. (SBU) The Katz-Ruzicka visit was useful in preparing the ground for TIFA talks in July in terms of discussions of possible deliverables. We will continue to work to consolidate this list prior to the proposed AUSTR Stratford visit in June after the transition to a new administration in Taiwan. Moreover, we will continue to push for a reduction in NCMs before the start of investment negotiations. End comment.
YOUNG